

Date

JoAnn Rucker  
Council Clerk, City of Covington  
P.O. Box 778  
Covington, Louisiana 70434

**Re: Ethics Board Docket No. 2021-72**

Dear Ms. Rucker:

The Louisiana Board of Ethics, at its April 9, 2021 meeting, considered your request, on behalf of the City of Covington, for an advisory opinion as to whether the city can purchase products from a city council member's employer and whether that employer may sell to other parties, including city employees.

### **FACTS PROVIDED**

Larry Rolling is a Councilman at Large for the City of Covington (the "City"). Mr. Rolling is also an employee of Action Screen Printers ("ASP"). He has no ownership interest in ASP and does not receive sales commissions.

The City is considering purchasing products bearing the city's logo from ASP. ASP is considering selling such products to third parties, including other employees of the City. The City is considering reimbursing its employees for such purchases. Finally, the City is considering using vendors who may subcontract work out to ASP.

### **LAWS**

**La. R.S. 42:1112B(3)** states that no public servant shall participate in a transaction involving the governmental entity in which, to his actual knowledge, any person of which he is an officer, director, trustee, partner, or employee has a substantial economic interest.

**La. R.S. 42:1120** provides an exception for an elected official to recuse themselves from voting on matters that violate section 1112 of the Code. The official may discuss and debate the matter, provided that he makes the disclosure of his conflict prior to his participation in such debate or discussion and prior to the vote.

**La. R.S. 42:111C(2)(d)** provides that no public servant and no legal entity in which the public servant exercises control or owns an interest in excess of twenty-five percent, shall receive any thing of economic value for or in consideration of services rendered, or to be rendered, to or for any person during his public service unless such services are: (d) Neither performed for nor compensated by any person or from any officer, director, agent, or employee of such person, if such public servant knows or reasonably should know that such person has or is seeking to obtain contractual or other business

or financial relationships with the public servant's agency; conducts operations or activities which are regulated by the public employee's agency; or has substantial economic interests which may be substantially affected by the performance or nonperformance of the public employee's official duty.

**La. R.S. 42:1116** provides that no public servant shall use the authority of his office or position, directly or indirectly, in a manner intended to compel or coerce any person or other public servant to provide himself, or other person with anything of economic value.

**La. R.S. 42:1117** provides that no public servant or other person shall give, pay, loan, transfer, or deliver or offer to give, pay, loan, transfer, or deliver, directly or indirectly, to any public servant or other person any thing of economic value which such public servant or other person would be prohibited from receiving by any provision of this Part.

### ANALYSIS

Mr. Rolling, as an employee of ASP, would be prohibited from participating in any transaction between the City and ASP, pursuant to La. R.S. 42:1112B(3). However, that could be avoided using the recusal exception found in La. R.S. 42:1120.

While recusal would eliminate any issues with participation under La. R.S. 1112, it would not prevent issues of prohibited sources under La. R.S. 42:1111C(2)(d). This provision would prohibit Mr. Rolling from receiving compensation from ASP while ASP has or is seeking to obtain contractual, business or financial relationships with the City. Further, any payments made to Mr. Rolling which are in violation of La. R.S. 42:1111C(2)(d) would also represent a violation of La. R.S. 42:1117 by ASP.

With respect to purchases of ASP products by employees paying with their own funds, such transactions are not between Mr. Rolling's agency and his employer, so there is no conflict under the Code of Governmental Ethics. Similarly, if the City chooses to reimburse employees for such purchases, those reimbursements represent neither a transaction nor a business relationship between the City and ASP. Mr. Rolling would be prohibited, however, from using the authority of his office to compel or coerce purchases by employees from ASP.

Finally, with respect to work that is subcontracted to ASP, this would represent a business relationship, albeit indirect, between ASP and the City, and, accordingly, payments made to Mr. Rolling by ASP would be a violation of La. R.S. 42:1111C(2)(d).

### CONCLUSION

The Board concluded, and instructed me to inform you, that the Code of Governmental Ethics would prohibit Mr. Rolling from receiving compensation from ASP while ASP has or is seeking to obtain a business relationship with the City, which includes both direct and indirect contract work. This prohibition would not apply to sales of products by ASP to third parties, including City employees, to the extent that such purchases do not involve the City. Mr. Rolling would also be prohibited from using the authority of his office to compel or coerce purchases by employees from ASP.

This advisory opinion is based solely on the facts as set forth herein. Changes to the facts as presented may result in a different application of the provisions of the Code of Ethics. The Board issues no opinion as to past conduct or as to laws other than the Code of Governmental Ethics. If you have any questions, please contact me at (800) 842-6630 or (225) 219-5600.

Sincerely,

**LOUISIANA BOARD OF ETHICS**

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Charles E. Reeves, Jr.  
For the Board

**DISCLAIMER**  
This is a draft opinion and it is **NOT** an opinion of the Louisiana Board of Ethics.  
No party may rely on the facts or conclusions. The analysis and conclusions herein are provided for discussion purposes only,  
and are subject to change or revision at the meeting of the Board of Ethics at which this matter is considered.